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Remarks

Appellants reassert the arguments presented in the Appeal Brief.

Additionally, Appellants desire to address various assertions made in the Examiner's Answer. First, the Examiner contends that attacking references individually cannot be used to show nonobviousness. To this, Appellants ask, then how does one demonstrate that the combination does not disclose all the claimed elements? After all, the combination exists as a hypothetical construct put forth by the Examiner. It is not only fair, but determinative, to demonstrate that, in a combination of references A and B, reference A has deficiencies (individually) and reference B has deficiencies (individually), the deficiencies overlapping in such a way that the combination does not disclose all the elements. It is in this spirit that Appellants have "individually attacked" the disclosures of Dietz and Phares to show uncured deficiencies, as should be abundantly clear from the record.

Further, Appellants have noted that Dietz teaches the superiority of a primary embodiment over a briefly mentioned alternative embodiment, arguing that such a teaching obviates any motivation to include the feature in the hypothetical combination. In the Examiner's eyes, the "admission" that the alternative embodiment is disclosed renders irrelevant any teaching of superiority of the primary embodiment. Appellants strongly disagree. In arguing obviousness, it is presumed that novelty exists, which means that the primary reference does not disclose all the elements recited in the claims. In such a case, not only do the primary reference's deficiencies need to be cured, but a motivation to make the combination or modification must exist. The fact that the primary reference teaches one embodiment to be superior is highly relevant to the motivation analysis. Such an analysis must ask, "What would the proposed combination teach one of skill in the art to do?"

To the claimed feature of completing a circuit that does not include a ground, the Examiner argues that Figure 4 of Dietz shows a completed circuit that does not include a ground. There is nothing in Dietz to indicate that Figure 4 shows a circuit that does not include a ground. Figure 4 merely shows a simplified circuit diagram to demonstrate that the coupling capacitance is the series combination of the capacitance of the table and the capacitance of the chair, and how the capacitance of the chair is inconsequential. It would be expected that at least the transmitter includes a power source that is connected to an earth ground. Appellants' specification describes embodiments such as hand-held mobile devices that have their own internal power source, not

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connected to an earth ground, as an example of "completing a circuit that comprises a user, the first contact point, and the touch sensor and that does not include a ground." (See Appellants' specification, page 21, lines 19-28, for example.) Dietz does not disclose such embodiments.

Finally, the Examiner continues to assert that Phares discloses a user contact point and touch sensor mounted in the same housing as an answer to Appellants' assertion that Dietz does not teach or disclose such a feature, ignoring Appellants' additional assertion that Phares does not properly teach or disclose a contact point as recited in Appellants' claims. As explained by Appellants, Phares merely discloses a touch sensor sectioned into identifiable regions, none of which is construable as a user contact point.

Appellants request favorable decision from the Board.

Respectfully submitted,

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Date

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